

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Dontae Mathis,

Case No. 2:23-cv-00935-JAD-EJY

Plaintiff

V.

Julie Williams, et. al.,

Order Dismissing and Closing Case

Defendants

9 Plaintiff Dontae Mathis brings this civil-rights lawsuit to redress constitutional violations
10 that he claims he suffered while incarcerated at High Desert State Prison.¹ On July 18, 2023, this
11 court ordered Mathis to either pay the \$402 filing fee or file a complete application to proceed *in*
12 *forma pauperis* by August 18, 2023.² That deadline expired, and Mathis did not pay the fee or
13 file a complete application to proceed *in forma pauperis*. Rather, he expressed in another
14 action—styled *Mathis v. Williams*, Case No. 2:23-cv-00936-GMN-NJK (*Mathis II*)—that he was
15 confused why this action had been filed.

16 After comparing the complaint in this action with the one filed in *Mathis II*, I found that it
17 was not clear whether Mathis had signed the complaint filed in this action,³ so I gave him until
18 September 20, 2023, to file a signed and dated first amended complaint and either pay the full
19 \$402 filing fee or file a fully complete application to proceed *in forma pauperis*.⁴ Alternatively,
20 I gave Mathis until September 20, 2023, to file a notice under Federal Rule of Civil Procedure

1 ECF No. 1-1.

2 ECF No. 3.

23 | ³ ECF No. 4.

⁴ *Id.* at 3-4.

1 41(a)(1)(A)(i) voluntarily dismissing this action without prejudice.⁵ That deadline expired and
 2 Mathis has not filed a first amended complaint and either paid the full filing fee or applied to
 3 proceed *in forma pauperis*, filed a notice of voluntary dismissal, or otherwise responded to my
 4 order.

5 District courts have the inherent power to control their dockets and “[i]n the exercise of
 6 that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.⁶ A
 7 court may dismiss an action based on a party’s failure to obey a court order or comply with local
 8 rules.⁷ In determining whether to dismiss an action on this ground, the court must consider:
 9 (1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its
 10 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of
 11 cases on their merits; and (5) the availability of less drastic alternatives.⁸

12 The first two factors, the public’s interest in expeditiously resolving this litigation and the
 13 court’s interest in managing its docket, weigh in favor of dismissal of the plaintiff’s claims. The
 14 third factor, risk of prejudice to defendants, also weighs in favor of dismissal because a
 15 presumption of injury arises from the occurrence of unreasonable delay in prosecuting an
 16 action.⁹ The fourth factor—the public policy favoring disposition of cases on their merits—is
 17 greatly outweighed by the factors favoring dismissal.

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19 ⁵ *Id.* at 4.

20 ⁶ *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

21 ⁷ *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to
 22 comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal
 23 for lack of prosecution and failure to comply with local rules).

⁸ *In re Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting
 23 *Malone*, 833 F.2d at 130).

⁹ See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

1 The fifth factor requires the court to consider whether less drastic alternatives can be used
 2 to correct the party's failure that brought about the court's need to consider dismissal.¹⁰ Courts
 3 "need not exhaust every sanction short of dismissal before finally dismissing a case, but must
 4 explore possible and meaningful alternatives."¹¹ Because this court cannot operate without
 5 collecting reasonable fees, and litigation cannot progress without a plaintiff's compliance with
 6 court orders, the only alternative is to enter a third order setting another deadline. But issuing a
 7 third order will only delay the inevitable and further squander the court's finite resources because
 8 Mathis ignored the first two orders. Setting another deadline is not a meaningful alternative
 9 given these circumstances. So the fifth factor favors dismissal.

10 Having thoroughly considered these dismissal factors, I find that they weigh in favor of
 11 dismissal. IT IS THEREFORE ORDERED that **THIS ACTION IS DISMISSED** without
 12 prejudice based on the plaintiff's failure to pay the filing fee or seek to proceed *in forma*
 13 *pauperis* in compliance with the court's order. The Clerk of Court is directed to **ENTER**
 14 **JUDGMENT** accordingly and **CLOSE THIS CASE**. If Dontae Mathis wishes to pursue his
 15 claims, he must file a complaint in a new case, and he must pay the fee for that action or file a
 16 complete application to proceed *in forma pauperis*.

17 Dated: October 3, 2023

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U.S. District Judge Jennifer A. Dorsey

22¹⁰ *Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining that considering less
 23 drastic alternatives *before* the party has disobeyed a court order does not satisfy this factor);
accord Pagtalunan v. Galaza, 291 F.3d 639, 643 & n.4 (9th Cir. 2002).

24¹¹ *Henderson*, 779 F.2d at 1424.